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Rico dubious of EPA designation

By Ben Murray

The ghosts of Rico's mining past have returned to cloud its future. A recent push by Environmental Protection Agency officials to finally resolve liability issues and put an end to the tainted flow from an abandoned mine above the Dolores River north of town has unearthed a potentially larger issue: lead.

While the tests are still out, Rico officials have recently feared that contamination levels could result in the town being slapped with a "Superfund" clean-up label and all the industrial waste zone stigmas and financial implications it brings.

"We got pretty nervous and concerned - we felt like decisions were getting ahead of disseminating information to the community," said Rico town attorney Eric Heil. "There's definitely a stigma about Superfund. People associate that with the worst-polluted, hazardous areas in the country."

Though they could not completely rule it out as a possibility, EPA officials agreed that Superfund designation could equate to a bad reputation for a town. According to EPA Assistant Regional Administrator Max Dodson, however, based on the preliminary tests, Rico doesn't seem like a likely candidate to get stuck with the dubious distinction.

"It's not a site that really jumps out at you [as Superfund potential]. The gravity doesn't seem to warrant that approach," he said. "It doesn't compete with other NPL-listed sites in terms of contamination." The NPL, or National Priority List, is another name for the Superfund list.

Ted Linnert, the EPA's community involvement coordinator for Rico on the projects, said the EPA realizes the impact a Superfund designation could have, and the agency wants to work with the town to come up with an amicable solution.

"There's no doubt that there's a stigma attached to Superfund sites," Linnert said, adding that the agency is "absolutely not interested" in pushing the designation on the town.

"We really would like to do what they think is best for their town," he said.

In any case, no moves will be made until the analysis is completed early next year on a second round of soil tests intended to reveal the level of naturally-occurring lead versus the amount left by the mine. In the meantime, an informational meeting on the issue is scheduled for Dec. 5 at the Rico Town Hall.

Water leads to lead

Town officials have known for nearly a decade that its soil has elevated lead levels, but the cleanup of that contamination has generally been overshadowed by an effort to stem the unabated flow of polluted water running from the nearby St. Louis Mine.

The EPA's interest in re-starting a water plant, deserted six years ago when the property changed hands several times, eventually overflowed into Rico itself. This summer the agency offered to test for lead, commonly found in former mining towns, Linnert said.

Initial testing this summer showed elevated lead levels in Rico's soil, prompting the federal agency to return with a plan to take samples from land of approximately 40 residences in the town, Heil said.

But when the inspectors showed up and asked to test soil from Rico's streets as well, the town turned them down - tests on municipal lands had never been mentioned, and the town isn't protected from EPA lawsuits forcing cleanup the way individual landowners are, Heil said.

"The reason we said no was because it was out of the blue, at the last minute," he said. "and that's not the way you go about working with the EPA."

Regardless, the rebuff prompted an editorial in The Denver Post, which urged Rico to "make nice" with the EPA, and which also lumped the polluted mine outflow with the soil sampling.

But both Heil and EPA officials said that the solutions to the two problems are essentially separate and should be dealt with individually.

From an EPA standpoint, Dobson said, it was his decision to approach the problems separately, which he plans to do. "I've made that policy decision," he said

Heil said the it was the EPA's decision to investigate lead in the town's soil in the first place, while the town was clamoring about the St. Louis Tunnel pollution. "The EPA really just took the charge up on that," Heil said.

Linnert had a different vision of the genesis of the lead testing, saying the study grew out of the EPA's offer at an August Rico town meeting to perform soil testing if individuals wanted it.

After several residents contacted the EPA to have tests performed on their property, the agency came to town and began the preliminary study that led to the pending, more extensive sampling, he said.

the stigma of Superfund

Rico officials are nervous that the government agency could call for a program that would clean the town's soil - but render it all virtually unsalable.

Heil said that Rico's main concern with a potential Superfund cleanup is that it will drive real estate buyers and building projects away from the town and lower its growth rate. With several major municipal projects in the hopper already, the loss of that growth rate could financially cripple the town, he said.

One of those projects, a \$5 million sewer system upgrade, would have forced the town to deal with lead levels in its soil on its own schedule, Heil said, sometime down the road.

He also said that the town isn't inherently resistant to cleanup help from the EPA - it's just anxious about how the agency will want to deal with a project that could have deep ramifications for the future of the town.

While Linnert and Dodson maintained that the Superfund distinction isn't likely, they said that a large part of the EPA's mandate is to protect human health, and if the tests come back showing a threat to that health, the agency will be forced to act accordingly.

Linnert said another option that could work for Rico would be to define the town as a Brownfields program - usually reserved for light or abandoned industrial areas to be cleaned up with federal funds - but added that emergency cleanup action couldn't be ruled out, pending the tests.

"In general we are not eager to put [Rico] on the NPL list," Linnert said.

An agreement

Heil said he has suggested that an agreement formed between the state and Arco - the mining company liable for the cleanup of much of Rico's pollution - be forged much like the successful pact between state officials, the towns of Telluride and Ouray and the Idarado Mining Co. to clean up contamination at the east end of Telluride.

That agreement, considered precedent-setting, was hammered out in the early 1990s following a decade of legislation that ensued after the state sued Idarado under Superfund provisions in the early 1980s.

But the idea to come to a similar multi-party agreement in Rico and avoid federal designation, to date, said Heil, has been met with a cold shoulder.

"They have been disinterested in that approach so far," Heil said

For now, officials on both sides of the issue hesitate to predict how the matter will be handled in the coming months. Both Heil and Linnert said that, until the final results of the soil tests are known, it's hard to know what path the EPA will try to take.